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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,025	12/12/2003	Francisco Javier Alday Lesaga	593P012	2456
42754	7590	03/15/2006		
NIELDS & LEMACK 176 EAST MAIN STREET, SUITE 7 WESTBORO, MA 01581			EXAMINER PARSONS, THOMAS H	
			ART UNIT	PAPER NUMBER
			1745	
DATE MAILED: 03/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/735,025	ALDAY LESAGA ET AL.	
	Examiner	Art Unit	
	Thomas H. Parsons	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/05/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because

Figures 1 and 2, suggest changing “Voltaje” to --Voltage--, and “Tiempo” to --Discharge Time--.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1: It is unclear as to whether the cathode incorporates all or at least one of *an inorganic crystalline additive of tungsten oxide, compounds of zirconium, titanium oxide with rutile structure, yttrium oxide, cerium oxide, zeolites and aluminosilicates*. Claims 2-14 are rejected to as being dependent upon rejected claim 1.

Claim 15: It is unclear as to whether the cathode incorporates all or at least one of *an inorganic crystalline additive of tungsten oxide, compounds of zirconium, titanium oxide with rutile structure, yttrium oxide, cerium oxide, zeolites and aluminosilicates*. Claims 16-26 are rejected to as being dependent upon rejected claim 15.

Claim 9: It is unclear as to what is meant by *the total anticipated proportion and the specified inorganic crystalline additives* in lines 1-3 of the claims.

Claim 9 recites the limitation "*the total anticipated proportion and the specified inorganic crystalline additives*" in lines 1-3. There is insufficient antecedent basis for these limitations in the claim.

Claim 10: It is unclear as to what is meant by *the mentioned inorganic crystalline additives* in line 2 of the claim.

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Claim 10 recites the limitation "*the mentioned inorganic crystalline additives*" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

Claim 11: It is unclear as to what is meant by *the mentioned inorganic additives* in line 2 of the claim.

Claim 11 recites the limitation "*the mentioned inorganic additives*" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 23: It is unclear as to what is meant by *the total anticipated proportion* and *the specified inorganic crystalline additives* in lines 2-4 of the claims.

Claim 23 recites the limitation "*the total anticipated proportion and the specified inorganic crystalline additives*" in lines 2-4. There is insufficient antecedent basis for these limitations in the claim.

Claim 24: It is unclear as to what is meant by *the mentioned inorganic crystalline additives* in lines 2-3 of the claim.

Claim 24 recites the limitation "*the mentioned inorganic crystalline additives*" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

4. Claim 15 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

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Claim 15 recites "A cathode ... according to the first claim, *further characterized* in that it is a cathode composed of manganese dioxide and it incorporates an inorganic crystalline additive of tungsten oxide, compounds of zirconium, titanium oxide with rutile structure, yttrium oxide, cerium oxide, zeolites and aluminosilicates, and in that at least one of these additives is present in a proportion or range between one ten thousandth (0.0001) and ten (10) percent by weight of the cathode mass. Claim 15 recites the same cathode as that recited in claim 1, and therefore is not further limiting the cathode of claim 1.

5. Claims 16-25 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (5,532,085).

Claim 1: The claim has been interpreted as an electrochemical element or cell, characterized in that it contains an anode, a separator, and a cathode composed of manganese dioxide, in that this cathode incorporates *at least one of* an inorganic crystalline additive of tungsten oxide, compounds of zirconium, titanium oxide with rutile structure, yttrium oxide,

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cerium oxide, zeolites and aluminosilicates, and at least one of these is present in a proportion or range between one ten thousandth (0.0001) and ten (10) percent by weight of the cathode mass.

Accordingly, Davis et al. disclose an electrochemical cell, characterized in that it contains an anode, a separator, and a cathode composed of manganese dioxide, in that this cathode incorporates an inorganic crystalline additive of tungsten oxide, and is present in a proportion or range between one ten thousandth (0.0001) and ten (10) percent by weight of the cathode mass (abstract, and col. 1: 5-31 and 46-57).

Because Davis et al. disclose a tungsten oxide that is chemically similar to that which is instantly disclosed, it obviously would provide an inorganic crystalline additive.

Claim 9: Davis et al. disclose that the total proportion of inorganic crystalline additive in the cathode is made up an inorganic crystalline additives (i.e. a tungsten oxide) (abstract, and col. 1: 5-31 and 46-57).

Claim 10: The recitation “**may contain**” in line 2 has been construed as a limitation that does not positively recite water of crystallization contained in the crystalline additive. However, because Davis et al. disclose a tungsten oxide that is chemically similar to that which is instantly disclosed, it obviously would provide an inorganic crystalline additive may contain water of crystallization.

Claim 11: The recitation “**may contain**” in line 2 has been construed as a limitation that does not positively recite foreign ions contained in the inorganic additive. However, because Davis et al. disclose a tungsten oxide that is chemically similar to that which is instantly disclosed, it obviously would provide an inorganic crystalline additive that may contain foreign ions.

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Claim 12: Davis et al. disclose that the cell is alkaline (abstract, and col. 1: 5-31 and 46-57).

Claim 13: Davis et al. disclose that the anode includes zinc particles (col. 1: 5-31 and 46-57).

Claim 14: Davis et al. disclose that the cell contains a solution of electrolyte (aqueous KOH) (col. 1: 5-31).

Claim 15: The claim has been interpreted as a cathode incorporates *at least one of* an inorganic crystalline additive of tungsten oxide, compounds of zirconium, titanium oxide with rutile structure, yttrium oxide, cerium oxide, zeolites and aluminosilicates, and at least one of these is present in a proportion or range between one ten thousandth (0.0001) and ten (10) percent by weight of the cathode mass.

Accordingly, Davis et al. disclose a cathode composed of manganese dioxide, in that this cathode incorporates an inorganic crystalline additive of tungsten oxide, and is present in a proportion or range between one ten thousandth (0.0001) and ten (10) percent by weight of the cathode mass (abstract, and col. 1: 5-31 and 46-57).

Because Davis et al. disclose a tungsten oxide that is chemically similar to that which is instantly disclosed, it obviously would provide an inorganic crystalline additive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas H. Parsons whose telephone number is (571) 272-1290. The examiner can normally be reached on M-F (7:00-4:30) First Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER

Thomas H Parsons
Examiner
Art Unit 1745
